

25th February 1955]

AN HON. MEMBER :—“ Why not wipe out permit-holders ! ”

SRI M. ETHIRAJULU :—“ May I know Sir, whether any permit has been given to any Government servant? ”

THE HON. SRI B. PARAMESWARAN :—“ Yes, Sir, to a few Government servants.”

SRI MOHAMED RAZA KHAN :—“ May I know the reasons for the great disparity in the number of permits between Coimbatore district and other districts, for example, North Arcot? ”

SRI K. BALASUBRAMANYA AYYAR :—“ May I know, Sir, why this question is put to the Hon. the Minister for Religious Endowments? ”

[Note.—An asterisk (*) at the commencement of a speech indicates revision by the Member.]

II.—GOVERNMENT BILL.

THE MADRAS PLANTATIONS AGRICULTURAL INCOME-TAX BILL, 1954
(L.A. BILL NO. 30 OF 1954)—*cont.*

MR. CHAIRMAN :—“ We will now take up the clause by clause consideration of the Plantations Bill. The hon. Member Dr. V. K. John will move his amendment to Clause 2.”

Clause 2.

* DR. V. K. JOHN :—“ Sir, I move the amendment standing in my name, namely,—

‘ For sub-clause (a) substitute the following :—

“ ‘ agricultural income ’ means agricultural income as defined for the purposes of the enactments relating to Indian Income-tax.” ”

Sir, agricultural income as defined in the Bill is wrong. It should have been defined in this manner, that is, “ ‘ agricultural income ’ means agricultural income as defined for the purposes of the enactments relating to Indian Income-tax.” Sir, you will find that the Constitution of India enables a State only to impose taxes on agricultural income. This is provided for in item 46 of the State List in the Seventh Schedule to the Constitution of India. The definition given to agricultural income in Article 366 of the Constitution of India is—

“ ‘ Agricultural income ’ means agricultural income as defined for the purposes of the enactments relating to Indian Income-tax.”

Why not simply incorporate this definition in the Bill? The Government of India may change or they may not change the enactment relating to Indian Income-tax. The definition in the Indian Income-tax Act for assessment of agricultural income may be one thing to-day and it may be amended later. We need not amend our Act because the definition of agricultural income is given in Article 366 of the Constitution of India. I do not know whether the Government are aware of the definition of agricultural

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income given in the Constitution. Sir, I move my amendment so that the Government may follow the definition given in the Constitution for 'agricultural income'. The Government need not go in for some other definition. The definition given in the Travancore-Cochin Act for 'agricultural income' is simply copied here. As the Government copied the Travancore-Cochin Act, they copied the printing mistakes also in the Travancore-Cochin Act. I pointed out this in my memorandum and then the printing mistakes were corrected. If the Indian Income-tax Act should define 'agricultural income' in some other way later, then we will have to change our definition also. But if we simply copy the definition given in the Constitution of India for 'agricultural income', we would not find ourselves in trouble. We need not change or alter our definition at any time. The definition given in the Constitution is a short one. The Government are bound to adopt that definition. Instead of this, we need not have gone in for a long definition covering nearly half a page as the Travancore-Cochin Act covers."

SRI MOHAMED RAZA KHAN :—" I second the amendment, Sir."

MR. CHAIRMAN :—" Amendment moved—

' For sub-clause (a) *substitute* the following :—

" ' agricultural income ' means agricultural income as defined for the purposes of the enactments relating to Indian Income-tax " . "

* SRI K. BHASHYAM :—" Sir, it is true that the Constitution gives the definition for ' agricultural income '. This is also liable to variation as often as the Central Government change their definition regarding agricultural income in the various enactments that they may pass. Perhaps it will save other people the trouble of finding out whether the definition we give is within the scope of the definition given in the Constitution. Our definition need not change with the definition of the Indian Income-tax Acts that may be passed. We need not depend upon them. If we want merely to follow the wording in the Constitution and depend upon the statutes that are going to be passed by the Central Government in regard to Indian Income-tax, we will lapse into uncertainty. It is much better to define on what we are going to tax at all. If we define ' agricultural income ', we will be on safer ground on certain matters. But if we merely leave it vague, and adopt the definition given in the Indian Income-tax Act from time to time, it will be difficult for us for achieving our object in imposing this tax. We will not know what will be the definition of ' agricultural income ' next year. It is therefore much better that we have our own definition taking care, however, to see that only income from agricultural land is taxed. Agricultural income must of course come within the definition that it is realised from agricultural land. If the definition is fairly accurate and is not controversial, it is quite all right. I say that it is unnecessary to follow the definition given in the

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Constitution. It is better that we have our own definition taking care, however, to see that it does not transgress the definition given in the Indian Income-tax Act."

* THE HON. SRI M. A. MANICKAVELU NAICKER :—" No 3-20
doubt we have followed the definition given in the Indian Income- p.m.
tax Act. But the definition has been further restricted here. We cannot have a general provision. The Bill does not cover all agricultural income. It covers only income from plantations. It has thus been restricted. As for the contention that we may follow the definition given in the Constitution, I have only to observe that it is better to have our own definition to suit our purpose. So, there is no difficulty in it, Sir."

* DR. V. K. JOHN :—" Sir, I find that this definition has been copied from the Travancore-Cochin Act which again has been copied from the Indian Income-tax Act. What I say is that the restriction of the income from tea as 40 per cent or 60 per cent should be by another paragraph. You are giving the definition of 'agricultural income' and not any other thing. The Government are not saying here what is meant by agricultural income from plantations. That they have said in some other place. They are only imposing a tax on plantations. Here, we are defining what is meant by agricultural income. We can never change the definition given in the Constitution which enables us to levy a tax on agricultural income. Agricultural income is defined under article 366 (1). We cannot have our own definition. We must adopt that definition. If we have a definition which is different from the one given in the Constitution, we will be transgressing the Constitution. Agricultural income has been defined there for the purpose of enactments relating to the Indian Income-tax Act. We cannot change the definition given by the Central Legislature either so far as it relates to the Indian Income-tax Act. We can never have our own definition. I request the Government to consider this aspect also. I am not hoping that the Government will accept the amendment. I only want to draw the attention of the Government to this aspect. If they think that I am right, they may come forward with an amendment. If they think I am wrong, they may keep to their own view."

* THE HON. SRI C. SUBRAMANIAM :—" Sir, the point for consideration is this. No doubt we have adopted the definition in the Indian Income-tax Act, and we cannot go contra to it. Should we not make the position clear in our enactment here? That is an Act passed by the Central Legislature. When it is amended, are we not to take notice of it? Are we simply to say, 'Let everybody refer to the Central Act and the amendment thereto'? I think that is not correct. When it is amended there or whenever we see that a particular provision is in conflict with the other enactment, it is necessary that we must bring about a change in our enactment also. It is not proper for us to ask the people to look to

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the Indian Income-tax Act to find out what we mean by 'agricultural income.' I think it is better for us to refer to it here in our enactment itself instead of asking people to refer to the other enactment, Sir."

MR. CHAIRMAN :—" The question is—

' For sub-clause (a) substitute the following :—

" ' agricultural income ' means agricultural income as defined for the purposes of the enactments relating to Indian Income-tax." " "

The amendment was lost.

SRI K. BHASHYAM :—" Sir, I move the amendment standing in my name, viz.—

' In sub-clause (u) (ii), for the words " upon whom the Agricultural Income-tax Officer has served a notice of his intention of treating him as principal officer thereof " substitute the following :—

" who in the opinion of the Agricultural Income-tax Officer, sufficiently represents the company or association provided that no such person shall be recognized as principal officer, unless a notice has been served on him and his representation has been considered." "

" Sir, . . . "

MR. CHAIRMAN :—" Let somebody formally second the hon. Member's amendment. Then, the hon. Member may speak."

* SRI K. BHASHYAM :—" Sir, I would first like to explain the reason why I have moved the amendment so that someone may be persuaded to second it. As I am speaking from the Government benches, I would like to explain my position."

* DR. V. K. JOHN :—" If the hon. Member could explain the amendment to the satisfaction of the House, I think the Hon. the Leader of the House himself may second his amendment."

* SRI K. BHASHYAM :—" Sir, in sub-clause (u) (ii), a ' principal officer ' has been defined as ' any person connected with the company or association upon whom the Agricultural Income-tax Officer has served a notice of his intention of treating him as principal officer thereof '. Before recognising a person as principal officer for the purpose of this Act, should we not ask that person whether he was willing to be recognised as the principal officer? Before deciding that a person will be the principal officer, I think it is much better to get his representation as to whether he was willing to be treated as a principal officer under the Act. His view should be heard before any decision is taken. Otherwise, when nobody else—either the Manager, Secretary or any other—was available, the Income-tax Officer may put a clerk or even a duffadar as the principal officer. Sir, I feel that my amendment,

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if accepted, will serve the purpose of the Government much better and the Government will also be doing justice to the person whom they select as the principal officer under the Act. When we are going to make a person responsible to submit returns and things like that under the Act and when we have also provided for penalties in case he fails to comply with the provisions of the Act, it is but just and proper that the person concerned must be heard in the matter and his consent obtained before the Government take a decision recognising him as the principal officer under the Act. It is for this reason I have moved my amendment, Sir."

DR. V. K. JOHN :—" As I am satisfied that the amendment is good, I second it, Sir."

SRI K. BALASUBRAMANYA AYYAR :—" Sub-clause (u) (ii) says, 'any person connected with the company or association upon whom the agricultural Income-tax Officer has served a notice of his intention of treating him as principal officer thereof'. Suppose the person concerned says, 'I am not connected with the company. I am not interested in the matter'. What will the Agricultural Income-tax Officer do? It will become a very difficult question. So, it is better to ask him whether he is really connected with the Company. After hearing his representation the Agricultural Income-tax Officer may decide whether to serve notice on him or not."

SRI T. PURUSHOTHAM :—" The Government are going to make rules under the Act. I think they will provide in the rules the method of service of notice and other matters. So, the point raised by the hon. Member Sri Bhashyam could be made clear in the rules. I believe on this understanding, the hon. Member will be prepared to withdraw his amendment."

* THE HON. SRI M. A. MANICKAVELU NAICKER :—" Sir, the Agricultural Income-tax Officer will no doubt find out who was the responsible person to serve notices on. If there was still any difficulty, we can make the necessary provisions in the rules to meet any contingency."

* SRI K. BHASHYAM :—" In view of the assurance given by the Hon. Minister, I am withdrawing my amendment, Sir."

The amendment was, by leave of the House, withdrawn.

Clause 2 was put and carried.

Clause 3.

SRI K. BALASUBRAMANYA AYYAR :—" Sir, I move the amendment standing in my name, namely,—

"In sub-clause (1), for the words "specified in Part I of the Schedule to this Act" substitute the following words:—

"as may be fixed by the Act of the Legislature passed for that purpose every year."

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My point in moving this amendment is, instead of having a permanent rate of tax, it would be better to follow the principle of the Indian Income-tax Act. The Indian Income-tax Act says that an Act of the Legislature might from time to time fix the rates of tax that will be levied in the corresponding year. That is what is said in section 3 of that Act. Here the case is a little more *prima facie*, because so far as the plantation crops are concerned, everybody knows that they are liable to great fluctuation in the matter of prices. Prices are subject to fluctuation on account of control of rates in foreign markets. The yield also is a fluctuating yield. If there is much profit in any one year, the rates may be increased. If there is a crisis in any one year, as there was one in 1951 and 1952, the rates may be lowered. I think that would be on the whole fair and beneficial both to the trade and to the Government. Instead of having this Re. 0-5-6, the Government could realise more tax if there is very good crop in any year and the plantations earn large profits in foreign markets. But in case there is difficulty or a crisis in any year, the rates must be lowered. So far as the Indian Income-tax Act is concerned, the rates are fixed every year. That principle can very well be adopted in this case. Therefore it is that I make bold to move my amendment. The language of the relevant section of the Indian Income-tax Act is slightly different. I need not unnecessarily move a similar amendment. It is enough if I say 'as may be fixed by the Act of the Legislature passed for that purpose every year.'"

DR. V. K. JOHN :—" I second the amendment "

MR. CHAIRMAN :—" Amendment moved—

' In sub-clause (1), for the words " specified in Part I of the Schedule to this Act ", substitute the following words :—

" as may be fixed by the Act of the Legislature passed for that purpose every year. " "

* THE HON. SRI C. SUBRAMANIAM :—" Sir, the point is this. In the Central Legislature, the practice has always been that along with the Budget, a Finance Bill is also presented to the House. The Finance Bill relates to the levy of customs duty, export duty, income-tax, excise duty, etc. But that is not the custom here. With reference to financial proposals mentioned in the Budget, we bring in separate Bills with regard to each proposal and pass it. We do it after the Budget is approved. I do not think it will be convenient to follow the procedure adopted by the Government of India. We are not accustomed to it also.

" Another point which Mr. Balasubramanya Ayyar mentioned was that the rates should be changed from year to year. After all we are going to levy tax on the income earned during the previous year and the rate of tax should have some certainty about it. The trade must know what they would have to pay in respect of their income and provide for it. If they are not certain about the rate

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and if we go on changing from year to year, then it means putting them to difficulty. As far as this Government are concerned, we would rather adopt a permanent rate. Of course, if the Legislature and the Government want that the rates mentioned in the schedule should be changed, we can always bring in an amending Bill; if the circumstances also warrant it, we shall certainly do it. As far as we are concerned, we want to make it clear that the rates mentioned in the schedule will apply until they are changed by another regular Act. It is better we have a certain amount of certainty in these matters. And then, Sir, the Central Government have got to balance the various levies that they have—excise, customs, income-tax, etc.—and so they have a provision in the Indian Income-tax Act that the rates are subject to review every year. Here, we are going to have only this tax and nothing else. We are not going to collect excise duty. We do not levy any other tax and so, taking all these factors into consideration, I feel that we need not follow the procedure followed by the Central Government here.”

SRI K. BALASUBRAMANYA AYYAR :—“ Sir, I agree with the Hon. the Minister for Finance that we do not have any other levy than this. But I may tell him that even the income-tax levied by the Central Government is with reference to the income earned during the previous year. That is a principle which is followed everywhere and, therefore, that need not be a sufficient ground for refusing changing rates every year. So far as the other reason adduced by him is concerned, here also we have got what is called the cess on coffee, tea, etc. For example, on coffee they have imposed cess. On tea also, the Government of India have imposed a cess of forty per cent. Suppose they change the rates with regard to these cesses. The same difficulty will arise here also. All these are still controlled by the Government of India.”

* THE HON. SRI C. SUBRAMANIAM :—“ Sir, that is the very reason why I want these permanent rates because the Central Government should not think that they can increase the cess and force the State Government to decrease its tax. Let them know where they are and what they are levying. They should adjust their cess with reference to our tax and not that we should adjust our tax to suit them. If we are to change the rates every year, they will say : ‘ Well, we have increased our excise duty, etc. You had better decrease your tax ’. We should not allow ourselves to be influenced by the Government of India’s policy in this matter.”

MR. CHAIRMAN :—“ The question is—

‘ In sub-clause (1), for the words “ specified in Part I of the Schedule to this Act ”, substitute the following words :—

“ as may be fixed by the Act of the Legislature passed for that purpose every year.” ”

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The amendment was lost.

Clause 3 was put and carried.

Clause 4.

* SRI K. BHASHYAM:—"Sir, I move the amendments standing in my name, namely,—

'In lines 3 and 4, after the word "plantation" and before the word "situated", insert the words "or plantations"'

'In sub-clause (a), for the word "a" substitute the word "any"'

'In sub-clause (b), line 2, after the word "trust" and before the words "or other", insert the word "for"'

Sir, these are all verbal amendments and there is no question of policy involved in them. In clause 4 it is said 'agricultural income derived from a plantation'. It must be really 'a plantation or plantations'. It cannot always be one plantation. A man may have more than one plantation. The second amendment also means the same thing. Instead of 'a plantation situated without the State', I want 'any plantation situated without the State.' Then, with regard to the third amendment that is also verbal; I do not however understand the intention of the Government with reference to sub-clause (b) of the Bill. I would like to know whether the Government intend to exclude cases where there is a private trust and where a person is merely a trustee. It looks as though a private person is not excluded. The sub-clause reads—

'Any agricultural income derived from property held under trust or other legal obligation wholly for religious or charitable purposes . . . will not be included in the income.'

I want the Government to clarify the position."

MR. CHAIRMAN:—"Does anybody second the amendments? I think nobody does. The amendments fall through for want of a seconder."

Clause 4 was put and carried.

Clause 5.

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p.m.

* DR. V. K. JOHN:—"Sir, I move the amendment standing in my name, namely,—

'For sub-clause (a) substitute the following:—

"(a) any sums paid in the previous year on account of land revenue due to the Government, local rates and cesses and municipal taxes in respect of plantation and also cesses and duties charged by the Government of India."

The Central Government levy a duty of Re. 0-4-0 for one lb. of tea for internal consumption. They levy a duty of 40 per cent on the manufacture of tea. Besides this another export duty of Re. 0-4-0 per one lb. is levied by the Government of India. All

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these years the tea industry is heavily taxed by the Government of India. Now in computing the agricultural income, you do not deduct all these things. I say it is not just and proper. Are the Government anxious that even these duties charged by the Government of India should be borne by the shareholder? What the Government ought to have done is to deduct all these things, I mean the export duty paid to the Government of India and the other duties levied by Central Government, from the tax itself. That you have not done. But still more, you do not deduct all those things even while computing the agricultural income. Is it fair not to deduct the duties paid to the Central Government when you compute the total agricultural income? Take the case of land revenue. What is land revenue? It is a tax paid to Government. While calculating the total income from the land, it should be deducted. What ought to have been done is that all taxes paid to the State Government, and the local bodies and the Central Government ought to have been deducted from the total agricultural income and the resultant income only ought to be taxed. That is what ought to have been done. This principle is recognised under the Indian Income-tax Act. But you say that you have followed the Indian income-tax in this Bill. But still you have not deducted the duties and cesses paid to the Central Government while computing the agricultural income. There are two parties who share the income. One is the shareholder and the other is the Government. Do the Government mean that they will take away by the left hand what the shareholder gets, while taking by the right hand their share by means of this income-tax? It amounts only to that. The shareholder's share of the tax to be paid is there. You do not deduct the duties paid to the Central Government. That means the company has got to pay it. That is indirectly taxing the shareholder again. Is it your intention that the shareholder should be made to starve? This will then lead to the ruination of the industry. Therefore it is but just proper that my amendment should be accepted."

MR. CHAIRMAN :—" Who is seconding, it? "

SRI K. BALASUBRAMANYA AYYAR :—" I am seconding it, Sir."

MR. CHAIRMAN :—" I should like to tell one thing. It is particularly necessary when an amendment is seconded that the hon. Member seconding that amendment should have some idea about it. Otherwise it will not solve the purpose if hon. Members simply for the sake of seconding amendments, second them. The purpose of the discussion would not be served by such seconding of amendments. I am not complaining against Mr. Balasubramanya Ayyar now. I have said only the general principle that should be followed."

DR. V. K. JOHN :—" Does the Chair want Mr. Balasubramanya Ayyar to make a speech? "

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MR. CHAIRMAN :—“ Not a speech. Let Mr. Balasubramanya Ayyar say what he has got to say.”

SRI K. BALASUBRAMANYA AYYAR :—“ Under the Indian Income-tax Act there are two ways in which relief is given to the assessee. One is by deducting whatever is paid by way of tax, etc., from the total income. Then only the income-tax is levied. For instance, when a person has insured himself for life, the whole insurance premium is deducted from his total income and the remainder only is taxed. The amendment moved by Dr. John says that the following may be substituted as sub-clause (a) for clause 5, viz. :—

‘ (a) any sums paid in the previous year on account of land revenue due to the Government, local rates and cesses and municipal taxes in respect of plantation and also cesses and duties charged by the Government of India. ’

Of course under sub-clause (b) of clause 5 it is stated that the agricultural income shall be computed after deducting the rent paid in the previous year to the landlord or superior landlord, as the case may be, in respect of the plantation from which the agricultural income is derived. But that is a circumscribed thing. You have said under sub-clause (a) that land revenue paid to Government shall not be included. I think it would be better to add that cesses and duties paid to the Government of India also would be deducted from the total agricultural income. That is what Mr. John's amendment says. That is why I support his amendment.”

MR. CHAIRMAN :—“ Amendment moved—

‘ For sub-clause (a), substitute the following :—

“ (a) any sums paid in the previous year on account of land revenue due to the Government, local rates and cesses and municipal taxes in respect of plantation and also cesses and duties charged by the Government of India.” ’

* THE HON. SRI C. SUBRAMANIAM :—“ We are now concerned with the income derived at the agricultural stage only. Now we have got to see whether the Union Government could levy a tax on the agricultural produce as such. If you go through the Union list and I have gone through it carefully (in fact to refresh my memory I went through it now) it is clear that there is no power vested in the Union Government to levy a tax on the agricultural produce as such. At the agricultural stage, they do not come into the picture. Of course after processing and when the goods are sold, they come in and when it is fit for export they levy export duty and the export duty will be deducted from the sale price and the actual price realised will be taken into account while computing the total income. So also the Centre is entitled to levy any excise duty as such on the agricultural produce. But that is done only after the agricultural stage. For instance in the case of coffee, they levy a cess for the

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purpose of managing the Coffee Board which controls the coffee market. Therefore we are concerned only with the agricultural stage. Only when it ceases to be an agricultural product, when it is processed and enters the market, the Centre comes in. In fact, the planters who were interviewed by the Select Committee did not at all raise any objection to this sub-clause (a). I do not think the planters will be hard hit by our not deducting the cesses and duties paid to the Government of India by them from the total agricultural income. In fact the planters did not express any difficulty regarding this sub-clause (a). Therefore I do not think the amendment of Mr. John is necessary."

SRI K. BALASUBRAMANYA AYYAR :—" Agricultural income is realized on account of the profit earned after the produce is marketed." 3-5

* THE HON. SRI C. SUBRAMANIAM :—" That is why there are always two stages. Take, for example, tea. The leaf stage is the first stage. After this comes the processing stage and sale. As a matter of fact this is taken as non-agricultural income for the purpose of Union taxation. That is why forty per cent in the income is deducted. In the case of coffee also they are now contemplating to fix a percentage. Automatically we have to reduce ten per cent or fifteen per cent in all cases where they can come to impose a duty. They are now going to specify the percentage of non-agricultural income for the purpose of the Union income-tax. They will leave the rest for our taxation. There may not be conflict with reference to the agricultural income as such. Take the case of the Indian income-tax. The Government of India have fixed forty per cent as the non-agricultural income. It is not open to us to say that it should be anything less than forty per cent or seventy per cent. To avoid that conflict alone, the definition of agricultural income is given in Article 366 of the Constitution. It is not for the purpose of avoiding the definition in our Constitution that we have defined agricultural income in the Bill. The Government of India can step in only when the produce ceases to be an agricultural produce. They can come in at the stage of processing. Therefore, Sir, there would not be any difficulty, and as far as plantations are concerned, this difficulty will not arise at all at any stage."

* DR. V. K. JOHN :—" Sir, this is a specious argument. Suppose four annas excise duty is not imposed on tea, the ultimate benefit will go to the grower. That is a tax. The grower ultimately loses that money and when the grower loses that money, whatever be the stage at which this tax is levied, the grower of the tea is affected by the four annas excise duty or export duty imposed by the Government of India. Who is to bear that four annas duty? Is it the shareholder or the Government? Besides what is the tax that the Government are deducting? The Government are deducting only one or two lakhs of rupees paid as land revenue. Is this just and equitable? The Government must deduct everything that the Government of India, the Madras

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Government, and local bodies collect from the plantation. These charges are a burden on the grower. If they are deducted, there will be margin for the grower."

* THE HON. SRI C. SUBRAMANIAM :—" I am sorry, Sir, the hon. Member has still not got my point. If we accept Dr. John's amendment the Union Government will benefit at our costs. When they impose a tax on non-agricultural income, they will have to make allowance for the cesses and duties charged by them. It is not for us to give them exemption. Land revenue, local rates and cesses and municipal taxes are all levied on the agricultural income. That is why we are giving deductions for all these. The excise duty is not levied on tea leaf as such. It is only after it passes the stage of tea leaf and is processed, the duty is levied. Therefore the duty levied at that stage is to be borne by the Government of India in computing the non-agricultural income for the purpose of the Union income-tax. It is not for us to bear that tax. It is also advantageous to the planters to have these taxes deducted while computing the income for the purpose of the Union income-tax. We are only concerned with the income from agricultural produce, that is, the first stage. As soon as it goes to the next stage, namely, non-agricultural income, we cannot levy any tax on that. Therefore, Sir, it is not possible for us to accept the amendment of Dr. John. Perhaps this amendment will help the planter to get deductions both at the Centre and in the State. We have allocated our spheres of taxation on income. So, all taxes coming within the agricultural sector will be taken into consideration by us and not any other taxes."

MR. CHAIRMAN :—" The question is—

' For sub-clause (a), substitute the following :—

" (a) any sums paid in the previous year on account of land revenue due to the Government, local rates and cesses and municipal taxes in respect of plantation and also cesses and duties charged by the Government of India." "

The amendment was lost.

* DR. V. K. JOHN :—" Sir, I move the amendment standing in my name, namely :—

' For sub-clause (f), substitute the following :—

" (f) in respect of replacement of buildings, machinery, plants and furniture which are the property of the assessee and which are required for deriving the agricultural income, a portion as would be sufficient for such replacement."

Sir, sub-clause (f) deals with depreciation of buildings, machinery, plant and furniture. My amendment says that it is not depreciation that should be taken into consideration but only replacement. This is an advanced theory. For the purpose of income-tax one

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should not merely deduct depreciation on the book value of machinery, buildings, plant, etc., but one must deduct the value of replacement. Now take the price of machinery. It has gone up three times or four times. Suppose the depreciation is made on the book value of the machinery. The book value may be one lakh of rupees. To-day on account of inflation or other causes, the machinery will cost Rs. 5 lakhs. The idea of depreciation is that if the planter wants to replace his machinery, he must have money to replace. Therefore depreciation is provided for. That was the old theory. To-day the theory is replacement value and not depreciation. So, the Government must make a larger allowance for replacement. Otherwise what will happen to the planter? The Government will allow depreciation only on one lakh of rupees. But his replacement cost will be Rs. 5 lakhs. Who is to find the balance of four lakhs of rupees? Shareholders? We are now dividing the income between the shareholder and the Government. The Government take away the tax and the shareholder gets his dividend. If the Government do not provide for replacement, the shareholder will hardly get anything. Mere depreciation on book value of buildings or machinery is no good at all. Therefore almost every company and every businessman to-day is keeping apart the replacement value. If the machinery is to be replaced in ten years, then the businessman must find funds which will enable him to replace his machinery. He must not think of making depreciation on the book value of his machinery. Depreciation was working all right at the time when prices were normal and did not shoot up. To-day the price of everything has gone up. No plantation machinery can be bought for anything less than five times its previous value. The Government are asking the shareholders to find the money for the replacement of the machinery by making allowance only for depreciation. I say that the Government must allow replacement value. This is much more than depreciation. This will result in a fair division of the income between the Government (revenue) and the shareholder (dividend)."

SRI K. BHASHYAM :—" Sir, I have got a doubt. In the Indian Income-tax Act, they do not give deductions for replacement value."

* DR. V. K. JOHN :—" Sir, the Indian Income-tax Act provides for depreciation. There has been a great deal of agitation that provision for depreciation will not encourage the industry. After all our object in imposing a tax is not to kill the industry. Plantation is a good industry. The Government will kill the industry if they allow only depreciation. In the present circumstances, they must allow replacement value. Many experts have written articles on this point, and they have said that this provision for depreciation should be altered. It is not altered yet. But when we are passing a Bill, why should we not provide for replacement value? After all it is equitable and simple. There is no complication in this at all. What is required is replacement and not depreciation."

The amendment was duly seconded.

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MR. CHAIRMAN :—" Amendment moved—

' For sub-clause (f) substitute the following :—

" (f) in respect of replacement of buildings, machinery, plants and furniture which are the property of the assessee and which are required for deriving the agricultural income, a portion as would be sufficient for such replacement." ' ' ' "

SRI K. BHASHYAM :—" There are two things, depreciation and replacement. Does the hon. Deputy Leader of the Opposition want both these? (Interruption.) Let the hon. Deputy Leader of the Opposition be a little patient. Let me say what I have got in my mind. After all we have plenty of time and he may give his views after hearing me. So far as replacement is concerned, it is capital expenditure and must come out of the capital. It is not a question of maintenance or carrying out some minor repair here and some other repair there. It is not a question of their incurring a monthly or annual expenditure on such maintenance. If it is capital expenditure, then it must be treated on a different footing. As a matter of fact, every company has got a Reserve Fund. What is the purpose of having a Reserve Fund? Even dividends are declared only after providing for the Reserve Fund which is kept separate. When money is put in the Reserve Fund every year, in a period of five or ten years, it will accumulate into a large sum from out of which the capital expenditure can be met. We cannot have it both ways. Especially when there is the Reserve Fund which has been created for a definite purpose, I do not think that 'replacements' can be accepted as an admissible item under this clause. Simply because some theory is adumbrated by some economist, we cannot go back. We will have to follow the practice or the rule that is found in the Indian Income-tax Act. I do not think even in England they have both these things. I am not an expert in income-tax law. But still, so far as I know, in no other enactment both depreciation and replacement are allowed as admissible items for purposes of deductions. It is a new idea. When this theory is not accepted even in English law and is not advocated by even English people, I do not know how my Friend is entitled to advocate it here."

* THE HON. SRI M. A. MANICKAVELU NAICKER :—" Sir, the allowances that we have made are on a rational basis. We have allowed a certain percentage on the written value. This is also done in the Indian Income-tax Act. The hon. Deputy Leader of the Opposition wants that some provision should be made for replacements. But his amendment is not a happy one. He says in his amendment, ' . . . a portion as would be sufficient for such replacement.' Who is to decide that a portion will be sufficient and what will be the portion itself? Such difficulties will arise. Further, the idea is not to provide for replacements but to provide only for depreciation. This has been

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done.' There is also another difficulty. The nature of replacements will vary from year to year and the cost will also be changing. All these difficulties are there. I think the hon. Deputy Leader of the Opposition must thank us for providing for depreciation. For these reasons, I oppose the amendment."

* DR. V. K. JOHN :—" Sir, the United Planters' Association have strongly urged in their memorandum that on account of the deflated value of the machinery and on account of the necessity for replacing some of the machinery without delay, the Government should not levy this tax and take away the money without providing for replacements which will cost a larger sum than that provided under 'depreciation..'"

* THE HON. SRI C. SUBRAMANIAM :—" No doubt the United Planters' Association have put forward this view very strongly before the Select Committee also. But, I would like to ask the hon. Deputy Leader of the Opposition to kindly consider the fact that in the agricultural sector the machinery involved is very small. It is not as if the entire operation is carried on by machinery as in the case of industrial concerns which carry on their work with machinery only. In the case of industrial concerns, the replacement factor has a greater significance. But still, the Government of India have not agreed to that point of view in their case. That being so, how can we provide for replacements in this case of plantations which are purely in the agricultural sector where the cost of machinery involved is only a small fraction of the capital required by an industrial concern? I do not think we can accept this principle which in the larger sphere has not been accepted by the Government of India and which has also not been accepted in any other enactment."

MR. CHAIRMAN :—" The question is—

' For sub-clause (f) *substitute* the following :—

" (f) In respect of replacement of buildings, machinery, plants and furniture which are the property of the assessee and which are required for deriving the agricultural income, a portion as would be sufficient for such replacement." " "

The amendment was lost.

* DR. V. K. JOHN :—" Sir, I move the amendment standing in my name, viz.—

' For sub-clause (g) *substitute* the following :—

" (g) *all expenses incurred as capital expenditure or otherwise in renovating the existing plantation and expanding the area of plantation.*" " "

Sir, as it is, sub-clause (g) provides for the deduction of expenses other than capital expenditure incurred in the previous year of cultivating the crop from the agricultural income. I would like the House to note the words 'expenses other than capital expenditure'. In the proviso to this sub-clause it is stated, 'Provided

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that in any particular year the total replanting expenditure shall not exceed the amount necessary for replanting $2\frac{1}{2}$ per cent of the acreage if the crop is rubber or coffee, $1\frac{2}{3}$ per cent if the crop is tea and $8\frac{1}{3}$ per cent if the crop is cardamom and 10 per cent if the crop is cinchona.' In my amendment I say that all expenses incurred as capital expenditure or otherwise in renovating the existing plantation and expanding the area of plantation should be deducted from the income. Sir, any taxation measure must encourage the industry. If the Government accept my amendment, do you know what will happen? The people in the industry will spend a lot of money from their income in renovating, replanting and enriching the soil and by growing fresh plants in the place of the existing useless ones. If more and more money was spent for these purposes, it will be for the good of the country, for the good of the community at large and for the good of those engaged in the plantation industry including labour as more and more labourers will be employed. According to the widely accepted and well-known theory of the famous economist, Prof. Kayce, money spent on consumption and investment for production is really money well spent. If this is accepted, we will be able to find employment for a larger number of men and the economic strength of the country will also consequently increase.

" Sir, there are many big planters. Knowing the conditions obtaining in the country at present and finding that they are faced with a number of taxes, many of them have lost interest in the industry as such and have even begun to neglect it. They not even manure the land properly. There are thousands of acres of land which can be brought under fruitful cultivation. There are also thousands of acres of land which require renovation and replanting. These planters never take interest in all these matters. They do not grow fresh plants. They do not even care to renovate the existing plantations. The moment we say that the money that they spend in renovating the existing plantations and expanding the area of plantation will be deducted, I am sure many of them will willingly come forward to improve the plantation industry. Without making this allowance, if the Government go on increasing the tax burden, the planters will lose all interest in improving the industry as such. That is why I say that we must give them the incentive to invest money on improvements to the industry. Any taxation measure, if it is intended to improve the economic condition of the country, must provide for such incentives. Otherwise, the Government will simply be killing the industry. The other day, I was telling that the President of the United States of America in his address to the Congress emphasised the point of view that the object of the Government was to increase the purchasing power of the people. That is to say, more and more money should be invested on production and consumption. Now, the Government do not allow money to be invested for these purposes. Unless the Government give the necessary encouragement to the people to invest

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money on productive activities, there will be no improvement in the industry. The Government must bear in mind that any taxation measure must encourage the industry. If the Government are prepared to make a provision like the one that I want, surely the industry will expand."

THE HON. SRI C. SUBRAMANIAM :—" Has there been any expansion now? "

* DR. V. K. JOHN :—" There has been some expansion. In the past, the tea, rubber and coffee plantations have expanded to a small extent. What I wish to point out at the present moment is that after this Bill is passed, the industry will contract to a great extent and consequently it is the Government that will lose. We should not look at the Bill from a narrow point of view. It should be viewed from a national point of view. We must have a little foresight. The future of the industry as such in the next generation or two must be borne in mind.

" We must not squeeze everything out leaving nothing for expansion and giving no encouragement to the planters. This is a most important amendment that we move in this House. If this taxation should not cut at the root of the industry but improve the plantations, then we must deduct the amount spent on renovations from the tax. Does not the shareholder deduct it from his dividend? Why should the Government be in a better position than the shareholder who wants to encourage the industry? The shareholder gets some money after seven years of planting the tea crop and six years of planting rubber. The shareholder says : ' I shall not take the dividend ; I shall invest it on the industry to expand it.' But the Government say : ' You take the money out of your share and let us have everything.' That should not be the attitude of the Government. Every taxation measure must be conducive to production. I submit that the Government must encourage the industry. They are not deducting the income of persons who are ploughing back their money into the industry. Only when these people are hard working and only when there is larger cultivation, the people will prosper. I am not sure that my amendment will be accepted. But let me tell the Government : ' If you take one rupee by way of tax, see that all cultivable lands are brought under cultivation. Let old trees be removed and new trees planted '. They may begin to yield after our life-time, may be after 25 years, and may benefit not us who live now. But, it does not matter. It is the economic strength of the community that brings more and more tax. Therefore, I ask you very seriously to consider this matter and see that deduction is allowed in respect of renovations and extensions. Then only will this measure be conducive to the prosperity of the country and the prosperity of this industry."

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SRI K. BALASUBRAMANYA AYYAR :—" Sir, I second the amendment."

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MR. CHAIRMAN :—" Amendment moved—

' For sub-clause (g) *substitute* the following :—

" (a) all expenses incurred as capital expenditure or otherwise in renovating the existing plantation and expanding the area of plantation." " "

SRI K. BALASUBRAMANYA AYYAR :—" I want to add just one word or two to what the Deputy Leader of the Opposition has said. The wording of sub-clause (g) is not quite correct. It says—

' . . . expenses other than capital expenditure incurred in the previous year . . . '

The proviso to the sub-clause relates to the limit of replanting expenditure that can be incurred. So, what is capital expenditure is not fully borne out in this sub-clause. As it is, if the cost of replanting is called capital expenditure, then it will not be allowed to be deducted from the total income."

THE HON. SRI C. SUBRAMANIAM :—" But still, renovation costs are excluded."

SRI K. BALASUBRAMANYA AYYAR :—" Capital expenditure means anything spent on extension, etc. The term ' expenses other than capital expenditure ' in the sub-clause is wrong because the cost of replanting may also be capital expenditure. So, the sub-clause and the proviso are a little contradictory to each other. The Government have not unfortunately defined what capital expenditure is. If they had defined it, I could understand such a provision. As it is, the clause is a little defective.

" With these words I second the amendment."

* THE HON. SRI M. A. MANICKAVELU NAICKER :—" Sir, provision has been made for allowing expenses on renovation and replanting. If you read the proviso, you will find, Sir, that we have gone into the matter in very great detail and provided even the ratio in which replanting should be done in respect of various crops like coffee, tea, etc., since the life of each crop varies; the life of tea is sixty or seventy years; in the case of coffee it is not so. There is provision for replanting expenses being deducted from the income. The only thing that it will not cover is capital expenditure. So, there is no need for the amendment."

MR. CHAIRMAN :—" The question is—

' For sub-clause (g) *substitute* the following :—

" (g) all expenses incurred as capital expenditure or otherwise in renovating the existing plantation and expanding the area of plantation." " "

The amendment was lost.

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* DR. V. K. JOHN :—“ Sir, I move the amendment standing in my name, namely,—

‘ Omit the two provisos to sub-clause (k) ’.

Sir, sub-clause (k) makes allowance for any interest paid in the previous year on any amount borrowed and actually spent on the plantation from which the agricultural income is derived. Then, there are two provisos which say—

‘ Provided that the need for borrowing was genuine having due regard to the assets of the assessee at the time ;

Provided further that the interest allowed under this clause shall be limited to six per cent on an amount equivalent to twenty-five per cent of the agricultural income from the plantation in that year.’

This sub-clause (k) was not in the original Bill. I then submitted a memorandum and pointed out that there was no reason why this sub-clause should not be included in the Bill when it was found in the Indian Income-tax Act and the Travancore-Cochin Act. The Government were pleased to show an accommodating spirit and introduced this provision. But look at the two provisos? The borrowing should be genuine having due regard to the assets of the assessee. Who is to decide this? This provision is not in the Income-tax Act. You have copied the provision of sub-clause (k) from the two Acts I have mentioned but these provisos are not there. Sir, this is making tax gathering a profession. The Government assume people will commit fraud.

“ Then, Sir, you limit the interest to six per cent. To-day, one has to pay nine per cent on borrowings by way of interest. The shareholders will suffer in consequence. I am sorry I have to come to that point again and again. If you throw such heavy burdens on the shareholder, who will invest money in plantations hereafter? Then take the limit set to the interest that can be deducted from the income. Suppose a company makes a lakh of rupees from which very large deductions have to be made—say to the extent of Rs. 50,000. The Government say : ‘ We can deduct only Rs. 25,000 and you must pay tax on Rs. 75,000. But the shareholders get dividend only on Rs. 50,000, the other Rs. 50,000 being paid as interest on borrowings. No man will put his money in the industry and it will be a case of diminishing returns. You are trying to get more and more money this year and the next year. You are not worried about what will happen in the year after the next and after five or ten years. ‘ Just collect whatever is possible this year ’, seems to be the policy of the Government. Such a provision is not found either in the Indian Income-tax Act or the Travancore-Cochin or the Bengal or the Assam or the Coorg Acts.

“ It is a very wrong to do and I oppose it tooth and nail.”

SRI K. BALASUBRAMANYA AYYAR :—“ I second it.”

MR. CHAIRMAN :—“ Amendment moved—

‘ Omit the two provisos to sub-clause (k). ’ ”

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SRI K. BHASHYAM :—“ So far as the first proviso is concerned, I feel that there should be some control so that there would be only genuine transactions.”

DR. V. K. JOHN :—“ What about the Indian Income-tax Act? Do they follow this principle? ”

* SRI K. BHASHYAM :—“ Under the Indian Income-tax Act the Commissioners of Income-tax take pretty care to see that that section is worked properly. Of course when a man has property worth a lakh and he borrows some money from some for his agricultural operations, such a transaction is certainly not genuine. You cannot call it a genuine transaction. You must therefore certainly object to non-genuine transaction. That is why it is correct that only genuine transactions are recognised.

“ I want only a clarification with regard to the second proviso. If I know what the Government's mind is, I may not move my amendment. The second proviso states—

‘ Provided further that the interest allowed under this clause shall be limited to 6 per cent on an amount equivalent to 25 per cent of the agricultural income from the plantation in that year.’

Suppose the income, I mean the agricultural income, for one year is say Rs. 100, 25 per cent of it is Rs. 25, and 6 per cent on that comes to Rs. 1-8-0. That is how the calculation goes. That virtually amounts to the interest being $1\frac{1}{2}$ per cent. Is this the figure allowed by Government.”

THE HON. SRI C. SUBRAMANIAM :—“ Yes, $1\frac{1}{2}$ per cent of the total agricultural income.”

* SRI K. BHASHYAM :—“ Then all right. If that is the idea, it is quite all right. I think the persons in charge of this Bill have calculated correctly. I had only a doubt and that has been clarified.”

* THE HON. SRI M. A. MANICKAVELU NAICKER :—“ I have no objection to giving the credit to the hon. Member (Dr. John) for the inclusion of sub-clause (k). That proviso has been put only to avoid spurious transactions. Otherwise there will be a swelling up of non-genuine transactions. It is only to limit it the proviso has been put. Therefore I am sorry I cannot accept the amendment of Dr. John.”

* DR. V. K. JOHN :—“ For the purpose of business, often businessmen have to borrow. Suppose he borrows and agrees to pay interest at 9 per cent, how could you say that that transaction is ‘ bogus ’? Who will give him money at the rate of 6 per cent readily? When he borrows at 9 per cent interest, why do you say that only transactions wherein 6 per cent is charged would be recognised? Why do you depart from the Indian Income-tax Act? Do you want that the shareholder should not get anything at all? Do you want him to die? For the sake of business, at

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times when they are in need of capital, businessmen have got to take loans. If they pay 9 per cent interest, why say that you will recognize only transactions wherein 6 per cent interest is charged? Does it mean then that that transaction herein 9 per cent interest is offered, the full brunt of it, should be borne by the shareholder? That is why I submit that the provisions of the Indian Income-tax Act should be applied here also. We should not depart from the Indian Income-tax Act. The Indian Income-tax Act does not say that it will not recognize transactions wherein 9 per cent interest is charged. That is why I say the two provisos to sub-clause (k) should be deleted."

* THE HON. SRI C. SUBRAMANIAM :—" May I inform the Deputy Leader of the Opposition that as a matter of fact the proviso as it is will benefit the shareholder in this way? This will be a check on the management not to go in for transactions wherein a higher rate of interest than 6 per cent is charged. Suppose there is no limitation on his borrowing. The person who manages the concern may borrow from a man whom he knows for a higher rate of interest. There may be a share between the management and the person who lends money. But ultimately the shareholder will lose by way of interest. That is why to give an inducement to the management not to resort to borrowing at a high rate and to plough back on his assets alone, we have provided for this proviso. In fact it should be the interest of the management to protect the interest of the shareholders. Therefore it is I say, Sir, that the provisos should be there as they are at present worded."

* DR. V. K. JOHN :—" I am sorry, Sir, the Hon. Finance Minister is not fairly acquainted with the business world. The whole business transaction lives on borrowing. Everybody's business is carried on by borrowing. Sometimes lakhs and lakhs are borrowed from banks and others for the sake of carrying on business. Therefore to say that only transactions wherein 6 per cent is charged will be recognized is wrong. It is opposed to the Indian Income-tax Act. Asking the management to plough back on their assets is not correct. Therefore I press my amendment."

* THE HON. SRI C. SUBRAMANIAM :—" We are not concerned with the state of affairs in the general business sector. We are concerned with the state of affairs with regard to businessmen in plantations. We think the conclusion to which we had come namely of recognizing only genuine transactions is a correct one."

MR. CHAIRMAN :—" The question is—

'Omit the two provisos to sub-clause (k).' "

The amendment was lost.

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SRI K. BALASUBRAMANYA AYYAR :—“ Sir, I move the amendment standing in my name, namely,—

‘ Add the following new sub-clauses after sub-clause (l) :—

“ (m) Any interest paid in the previous year in respect of a mortgage or charge, to which the land from which the agricultural income is derived, is subject.

(n) Any interest paid in the previous year on any debt whether secured or not for the purpose of acquiring the land from which the agricultural income is derived.

(o) Any interest paid on any amount borrowed and spent for the purpose of reclaiming and improving the property from which the agricultural income is derived.

(p) Any sum paid as cess or subscriptions to Planters’ association and any sum paid as subscription to scientific research institutions in respect of the plantation industry.

(q) Any sums paid as remuneration and expenses to the managing partner of a firm or to the Directors of a company.

(r) Any sums paid as pension and gratuity and as workmen’s compensation insurance premium to the employees of the assessee.” ’

I have listed several items wherein deductions have got to be made. When a landed property is mortgaged and interest is paid on the loan taken, the interest paid should be deducted, from the total agricultural income. Secondly if any amount was actually borrowed for acquiring a land, the interest paid should be deducted. Thirdly interest paid on any amount borrowed for the purpose of reclaiming (suppose there is a forest area adjoining; the cost for reclaiming it and making it fit for cultivation of plantations) and improving the property from which the agricultural income is derived, should be deducted. Fourthly sums paid to Planters’ associations should be deducted. These associations are very necessary for the successful growth of the plantation industry. Sums paid as subscriptions to those associations should be deducted while computing the agricultural income. The importance of scientific research in the plantation industry cannot be underestimated. Scientific research goes a long way towards increasing the yield from plantations. Therefore sums paid as subscription to scientific research institutions in respect of plantation industry should be deducted.

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“ It is absolutely necessary that insurance premia, gratuity, and pension, should be deducted. These are all an obligation on the industry to pay under the Act. The industry has to pay the premium on the insurance policies of its workers under the provisions of the Act.”

SRI K. BHASHYAM :—“ Sir, is it correct to say that all these deductions are really made under the Indian Income-tax Act? ”

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DR. V. K. JOHN :—" I second the amendment of the hon. Member Sri Balasubramanya Ayyar."

MR. CHAIRMAN :—" Amendment moved—

' Add the following new sub-clause after sub-clause (l) :—

" (m) Any interest paid in the previous year in respect of a mortgage or charge, to which the land from which the agricultural income is derived, is subject.

(n) Any interest paid in the previous year on any debt whether secured or not for the purpose of acquiring the land from which the agricultural income is derived.

(o) Any interest paid on any amount borrowed and spent for the purpose of reclaiming and improving the property from which the agricultural income is derived.

(p) Any sum paid as cess or subscriptions to Planters' association and any sum paid as subscription to scientific research institutions in respect of the plantation industry.

(q) Any sums paid as remuneration and expenses to the managing partner of a firm or to the Directors of a company.

(r) Any sums paid as pension and gratuity and as workmen's compensation insurance premium to the employees of the assessee."

SRI K. BALASUBRAMANYA AYYAR :—" Sums paid as remuneration to the Directors are allowed to be deducted under the Indian Income-tax Act."

* DR. V. K. JOHN :—" Sir, I may point out that most of the deductions which the amendment of Sri K. Balasubramanya Ayyar covers have been covered by the Indian Income-tax Act, the Travancore-Cochin Act, the Coorg Act, the Assam Act, and the West Bengal Act? But the Government of Madras would not give the deductions which are given by other Governments. Why this Government have not allowed these exemptions is a thing for this Government to explain. Although the Government say that they are charging only five annas six pies in the rupee as tax, the actual charge comes to about 12 annas in the rupee, because the Government do not make allowance for all these expenses. After all, as I said already, there are two parties to share the income, namely, the investor (the shareholder) and the Government. The investor is asked to take all the burden of the legitimate deductions from the gross income. The Government say that they will not allow those deductions, but will charge at the rate of 5 annas. 6 pies in the rupee. This actually comes to twelve annas in the rupee. I think, Sir, this is very inequitable, and the Government are inflicting a very great injury on the industry and on the future generation of investors. If we take out as much as possible from the industry, it will go to ruin very soon. It is a dollar earning industry. It is an industry engaging four lakhs of

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workers. When it is closed one after another, we will find some other Ministers coming later on and saying 'Well, they made a mistake', as was stated yesterday that Rajaji made the mistake of introducing the Moratorium Act and therefore the Government had to introduce some other Bill. It is all some excuse for some Minister. We must look at every proposition from the national point of view—from the point of view of production, employment, future employment, etc. We should not try to contract business for the purpose of getting some money for the time being. That is a very narrow-minded outlook and no civilized Government should look at any proposition in that manner."

* SRI K. BHASHYAM:—"Sir, if there is already provision in the Indian Income-tax Act that even in the case of agricultural income, these deductions are to be allowed, I do not know whether the Government have examined the matter or not. If the Constitution provides a certain definition for agricultural income, i.e., that 'agricultural income' means agricultural income as defined for the purposes of the enactments relating to Indian Income-tax, and if the Indian Income-tax Act provides for these deductions, it is a question for consideration why these deductions are not provided for in this Bill. It is purely a legal question. Whether the Government have examined this question or not, I do not know. I myself did not think of it before. Therefore it is I am doubtful whether the Government can enforce a tax in the manner suggested in the Bill. I should like to ask Government that if the definition of 'agricultural income' in the Constitution is the same as that defined for the purpose of the Indian Income-tax Act, and this Bill differs from that Income-tax Act in any material particular, can the tax be enforced at all? That is the position. I feel some doubt in the matter. I hope the Government will take care to see that the matter is examined by the department."

* DR. V. K. JOHN:—"Sir, it has been provided in the Indian Income-tax Act, section 9, that any interest paid in the previous year in respect of mortgage to which the agricultural income is subject, shall be deducted. We find the same provision, word for word, in the Travancore-Cochin Act, section 5. I have mentioned this in my memorandum that any interest paid in the previous year in respect of a mortgage should be deducted. In the Travancore-Cochin Act, in section 5 (g) the same is provided. Sri Bhashyam put a query in the matter, and therefore I wanted to say all this. He has not made a study of the subject. But I have studied it and given a memorandum. The Government have accepted some of my points and rejected others."

* THE HON. SRI M. A. MANICKAVELU NAICKER:—"Sir, this question was discussed elaborately at the Joint Select Committee stage, and the reason why I cannot accept this amendment is that the Joint Select Committee thought that they had made quite a liberal provision for deductions, and this further

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deduction was not necessary. We also did not allow this deduction for the reason that if we allowed this deduction, the planter, who developed his plantation with his own resources, would be under a handicap. To avoid unnecessary borrowing and not to encourage borrowing so that the planters could husband their resources properly, we thought it was not necessary to allow this deduction. That is the reason why we did not want to include this deduction even though it was pointed out that there was a provision in the Indian Income-tax Act for this purpose. It is for a good reason we did not allow this deduction."

MR. CHAIRMAN :—" The question is—

'Add the following new sub-clauses after sub-clause (l) :—

" (m) Any interest paid in the previous year in respect of a mortgage or charge, to which the land from which the agricultural income is derived, is subject.

(n) Any interest paid in the previous year on any debt whether secured or not for the purpose of acquiring the land from which the agricultural income is derived.

(o) Any interest paid on any amount borrowed and spent for the purpose of reclaiming and improving the property from which the agricultural income is derived.

(p) Any sum paid as cess or subscriptions to Planters' Association and any sum paid as subscription to scientific research institutions in respect of the plantation industry.

(q) Any sums paid as remuneration and expenses to the managing partner of a firm or to the Directors of a company.

(r) Any sums paid as pension and gratuity and as workmen's compensation insurance premium to the employees of the assessee." "

The amendment was lost.

* DR. V. K. JOHN :—" Sir, I move the amendment standing in my name, namely,—

'Add the following new sub-clause after sub-clause (l) :—

" (m) Any expenditure (not being in the nature of capital expenditure) laid out or expended on scientific research related to the agriculture."

Sir, this has been copied word for word from section 10 (12) of the Indian Income-tax Act. In dealing with business, research is very important, and particularly research in a plantation industry is very much more necessary than any other business. We try to find out which kind of plant will give more income. An acre of rubber in Madras produces 300 pounds, whereas in African plantations, in Ceylon, in Singapore, in Burma, in Java and other places, one acre produces 1,200 to 1,500 pounds. This is due to the research made and the application of the results of that

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research to plantations. Instead of asking every planter to undertake research so that our production may increase, the Government say 'Let the shareholder pay out of his share for conducting research.' The Indian Income-tax Act provides for making researches, because the Government of India want to see that business improves and increases. The Government's idea is to take away as much money as possible. It does not matter to them whether research was carried out or not. (Interruption by Sri A. M. Allapichai.) I deliberately make this statement. Because, any Government which is really interested in the improvement of the industry ought to have incorporated a provision, which is found in the Indian Income-tax Act, in this Bill, by which money spent on research should be allowed as an item of deduction. The Government have failed to do this. Such a provision is found in the Travancore Act, it is found in the Coorg Act, the Assam Act, the Bengal Act. It is also found in the Indian Income-tax Act. The Hon. Minister while replying to the previous amendment moved by my hon. Friend Sri Balasubramanya Ayyar said that the Government had allowed deductions. Have the Government allowed any deductions over and above the ones allowed in the Indian Income-tax Act? None whatsoever. That is why I have to say and say deliberately, in spite of Sri Allapichai's interrupting me, that the Government are only interested in taking away as much money as possible from the planters, without providing for reasonable and justifiable deductions. Even when they are taxing people, they should not have a narrow outlook. If they follow their present policy, I am afraid it will be to the detriment of the industry as such."

SRI K. BALASUBRAMANYA AYYAR :—" I second the amendment, Sir."

* THE HON. SRI M. A. MANICKAVELU NAICKER :—" Sir, as we proceed with the discussion, the hon. Deputy Leader of the Opposition is getting more and more heated. This matter was also considered by the Joint Select Committee and was negatived. The reason is that there is not much of research to be carried on in the agricultural sector. I admit there is some scope for research in the agricultural sector whereas in the case of the industrial sector there is wider and greater scope for research. We thought that it was not necessary to make a special provision for research in this case. So we have not included it as an item of deduction. For these reasons, I oppose the amendment, Sir."

MR. CHAIRMAN :—" The question is—

' Add the following new sub-clause after sub-clause (D) :—

" (m) Any expenditure (not being in the nature of capital expenditure) laid out or expended on scientific research related to the agriculture." " "

The amendment was lost.

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DR. V. K. JOHN :—“ May I move the other two amendments, Sir? ”

SRI K. BALASUBRAMANYA AYYAR :—“ Sir, I wish to make a suggestion so that the business may be finished quicker. I have given notice of an amendment to clause 10 which covers insurance premia and contribution to Provident Fund. If Dr. John does not move his two amendments relating to insurance and Provident Fund now and if the House does not take a decision on them, my amendment to clause 10 may be taken up when we consider clause 10. I think that will be a much better procedure.”

* DR. V. K. JOHN :—“ In that case, I am not moving my amendments, Sir.”

* SRI K. BHASHYAM :—“ Sir, may I point out that there is a difference between the amendments of Dr. John and the amendment of Sri K. Balasubramanya Ayyar? Dr. John's amendments are to clause 5 which deals with deductions whereas Sri Balasubramanya Ayyar's amendment is to clause 10 which deals with exemptions. So they deal with different branches.”

* DR. V. K. JOHN :—“ In that case, I move my amendments, Sir, viz.—

‘ Add the following new sub-clauses after sub-clause (m) :—

“ (n) Any sums paid by an assessee to effect an insurance on the life of the assessee or on the life of a wife or husband of the assessee or in respect of a contract for a deferred annuity on the life of the assessee or on the life of the wife or husband of the assessee or as a contribution to any Provident Fund to which the Provident Funds Act applies.

“ (o) Contributions for Provident Fund and superannuation fund.” ’

“ Sir, my first amendment deals with premium paid on insurance policies. Such a provision is found in the Indian Income-tax Act. Why cannot we make a similar provision here and allow the planters to deduct the money paid towards insurance premia, and thus encourage insurance also? It is not proper to say that they will have to meet this expenditure from their own share and no deduction can be made for this purpose. The actual truth is they are not interested in the improvement of the industry. The ceiling rate of 5½ annas fixed by the Government is only an eye wash. As they have not provided for many of the reasonable deductions, it will in actual practice work out to 12 annas in the rupee.

“ As for my second amendment relating to contributions for Provident Fund and superannuation fund, I wish to point out that there is a similar provision in the Indian Income-tax Act. I cannot understand why this Government have not introduced a provision for allowing deductions in respect of contributions made

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to provident fund and superannuation fund. Have we ever heard of such a thing? Times are changing and everybody wants the creation of the provident fund and superannuation fund for the benefit of the employees and all sorts of encouragement are also given in this regard. But, here is a Government which says in 1955 that it will not allow deductions for contributions to provident fund and superannuation fund. Many years ago, such a provision was incorporated in the Indian Income-tax Act. The Hon. Minister will now get up and say, 'Oh! this matter has already been considered by the Select Committee and it has decided that it is not necessary to provide for this item of deduction.' Sir, does the fact that the Select Committee has taken a particular decision preclude us from pointing out that it was a wrong decision? Now, what is the idea of this Government in going 15 years behind the time? Even though this Bill may be passed I request the Government to consider this aspect very seriously and bring forward a suitable amending Bill which will be in conformity with the provisions found in the Indian Income-tax Act. The Government will do well to do it instead of taking a narrow view of things. It is no good taxing people in this manner, squeezing out of them as much as the Government can, without giving them the benefit of all the deductions provided in the Indian Income-tax Act."

SRI MOHAMED RAZA KHAN :—" I second the amendments, Sir."

MR. CHAIRMAN :—" Amendments moved—

' Add the following new sub-clauses *after* sub-clause (m) :—

" (n) Any sums paid by an assessee to effect an insurance on the life of the assessee or on the life of a wife or husband of the assessee or in respect of a contract for a deferred annuity on the life of the assessee or on the life of the wife or husband of the assessee or as a contribution to any Provident Fund to which the Provident Funds Act applies.

(o) Contributions for Provident Fund and superannuation fund." "

* THE HON. SRI M. A. MANICKAVELU NAICKER :—
" Sir, my reference to the Select Committee's decision was for a different purpose altogether. I only wished to point out that the Government were not taken aback by the views expressed by hon. Members on the floor of the House as those views were also expressed before the Select Committee which considered those views thoroughly and after considerable discussion has taken a particular decision. So, it was only with a view to pointing out that some of these points were not new to the Government and they had occasion to consider them even previously, I made a reference to the Select Committee's decision. It is not for any other purpose, Sir.

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“ As for making allowance for insurance premium and for the suggestion of the hon. Deputy Leader of the Opposition that the Government must encourage insurance, I agree that we must encourage insurance. But it has to be done in some other connection and not in this Bill. I think that life in the hills does not necessarily require insurance. No doubt insurance is good. But it is not so necessary as to make a definite provision in this Bill.

“ With regard to contribution for Provident Fund and superannuation fund, the matter can be argued both ways. But I submit that at this juncture it is not necessary to provide for it here. Let us watch how this measure works. Later on, if we find . . . ”

* DR. V. K. JOHN :—“ If the Hon. Minister can give me an assurance that he will consider my suggestion even at a later date, I am prepared to withdraw my amendments, Sir.”

* THE HON. SRI M. A. MANICKAVELU NAICKER :—“ That is what I have been telling even from the very beginning. This is a new Bill or a new measure, so to say, that we are passing. Let us watch how it is working and later on if in actual practice some absolutely necessary changes are called for, we shall examine them.”

* DR. V. K. JOHN :—“ We are here only to help the Government. We do not expect the amendments to be accepted by the Government and the Bill sent back to the Assembly for reconsideration. If the Hon. the Minister feels there is something good in our suggestion and that what we suggest is found in the Indian Income-tax Act, I shall be satisfied. If they say ‘ we will consider it ’, then we are satisfied. After all, the Government must consider all our suggestions because they are not our own. They are based on the provisions of the Indian Income-tax Act. If the Government are satisfied with this position, then I withdraw my amendments. That is all.”

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MR. CHAIRMAN :—“ Does the hon. Member withdraw his amendments? ”

DR. V. K. JOHN :—“ No, Sir.” (Laughter.)

MR. CHAIRMAN :—“ The question is—

‘ Add the following new sub-clauses after sub-clause (m) :—

“ (n) Any sums paid by an assessee to effect an insurance on the life of the assessee or on the life of a wife or husband of the assessee or in respect of a contract for a deferred annuity on the life of the assessee or on the life of a wife or husband of the assessee or as a contribution to any Provident Fund to which the Provident Funds Act applies.

(o) Contributions for Provident Fund and superannuation fund.” ”

The amendments were lost.

Clause 5 was put and carried.

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Clause 6.

SRI K. BALASUBRAMANYA AYYAR :—“ Sir, I move the amendment standing in my name, namely,—

‘ In sub-clause (ii), for the words “ on such portion as may be determined in the prescribed manner ” substitute the following words :—

“ On such portion of the income fixed according to the proportion between the cultivated acreage, in the part within the State and in the part without the State.” ’

“ Sub-clause (ii) says—

‘ where the portion of the income so attributable cannot be determined by the method specified in clause (i), on such portion as may be determined in the prescribed manner.’

Sir, this provision is vague. The manner to be prescribed should not be under the rule-making powers of the Government. It should be specified in the Act itself, so that it may be worked accurately. Under sub-clause (i) the income can be determined from the accounts maintained by the assessee. But when the portion of income relating to plantations situated within the State could not be determined under sub-clause (i), I thought, it would be much better to prescribe how it should be determined otherwise in the Act itself. Instead of a general assessment being made by the Income-tax Officer, it is much better to say that the proportion between the cultivated acreage, in the part within the State and in the part without the State will determine the income earned within the State. This figure cannot be arrived at by a reference to the accounts of the assessee, because no accounts are produced. After all, what are the rules going to say? They will prescribe some method. Why not we prescribe it in the Act itself? ”

DR. V. K. JOHN :—“ I second the amendment, Sir.”

MR. CHAIRMAN :—“ Amendment moved—

‘ In sub-clause (ii), for the words “ on such portion as may be determined in the prescribed manner ” substitute the following words :—

“ On such portion of the income fixed according to the proportion between the cultivated acreage, in the part within the State and in the part without the State.” ’ ”

* SRI K. BHASHYAM :—“ Sir, I feel the amendment is unnecessary. Suppose there is a case where a person has 100 acres of land under cardamom here and ten acres outside the State. Then I think his portion of income in respect of lands within the State should be taken as 100/110 of the income derived by him from all the estates owned by him. I hope I am correct in interpreting the amendment. I think it is unnecessary and also not safe to ascertain the probable income from what is earned outside the State. Anyway, since we have already a general provision in the sub-clause to this effect, let us leave it to be

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said in the rules as to how the income within the State should be ascertained. After all, the proposal of the hon. Member that it should be on the basis of acreage may not be correct at all. Sometimes, it may be pepper here and cardamom there. It will be coffee here and tea there. So, it must be left to the Government to prescribe it with reference to the various circumstances in which each plantation may find itself at the time the tax is levied."

SRI K. BALASUBRAMANYA AYYAR :—" Sir, it is only in cases where the officer is not enabled by the accounts kept by the assessee to ascertain the income that sub-clause (ii) operates. This rough and ready method must be there. After all what is a rule? It has the effect of law and we must know what the procedure to be adopted is."

* SRI K. BHASHYAM :—" My point has been misunderstood by the hon. Member. If this kind of calculation is suggested only in cases where we are not able otherwise to find out from the accounts submitted by the assessee his income, then I say, Sir, even in the other portions of the Bill, you will find that when an assessee does not submit his returns or accounts, it is left to the Income-tax Officer to make the assessment on some reasonable basis. If the accounts are submitted and if the officer is satisfied, he makes the assessment on the basis of the accounts submitted. Otherwise, it should be 'in the prescribed manner'."

* THE HON. SRI M. A. MANICKAVELU NAICKER :—" The object of the amendment seems to be to calculate the income on the basis of acreage. But that will not be quite correct because soil conditions vary and there are other factors which contribute to increase or decrease in income in different places. But the Government are not going to depend entirely upon the officers. They will, if necessary, make proper rules for that. I hope this assurance will satisfy the hon. Member."

MR. CHAIRMAN :—" I shall put the amendment to vote. The question is—

'In sub-clause (ii), for the words "on such portion as may be determined in the prescribed manner" substitute the following words :—

"On such portion of the income fixed according to the proportion between the cultivated acreage, in the part within the State and in the part without the State." "

The amendment was lost.

Clause 6 was put and carried.

MR. CHAIRMAN :—" I now adjourn the House to meet again at 3 p.m. tomorrow."

The House then adjourned.